

APPEAL NO. 022979
FILED JANUARY 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 30, 2002. The hearing officer determined that appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the first through fourth quarters. Claimant appealed the determinations in this regard on sufficiency grounds. Respondent (carrier) responded that the Appeals Panel should affirm the hearing officer's decision and order.

DECISION

We reverse and render.

Claimant contends the hearing officer erred in determining that: (1) she had an ability to work during the qualifying periods in question; (2) she did not attempt in good faith to obtain employment commensurate with her ability to work; and (3) she is not entitled to SIBs for the first through fourth quarters. Regarding whether claimant had an ability to work during the qualifying periods in question, no doctor stated that claimant was able to work. In his December 7, 2001, letter Dr. K, a psychiatrist, stated:

[Claimant] is at a minimal level of functioning. She is unable to work, and has been unable to work for the period of time I have been treating her. . . . Her current status prevents her from normal interactions with stressful situations, causing her significant distress. These problems are a direct result of the work related injury and are part of her chronic pain syndrome.

Due to agoraphobia and panic disorder she is unable to engage in job interviews either on the phone or in person. These situations can cause her to decompensate to such a degree [that] she would need hospitalization.

In a March 2002 report, Dr. L stated that claimant "is currently having difficulties managing the responsibilities of everyday life," that the "test pattern is consistent with that of a person who has been traumatized and remains affected . . ." and that "she is probably unable to work." In a July 2002 letter, Dr. C stated that "[claimant] is not . . . able to work, regardless of the restrictions. . . . [S]he is still symptomatic and these symptoms would worsen should she return to employment." We conclude that the hearing officer's determination that, during the qualifying periods in question, "claimant had some ability to work," is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we reverse it. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We further conclude that the hearing officer erred when he stated that "there is no medical opinion in the record to the effect [that] Claimant was unable to perform any type of work in any capacity, much less an explanation of how the injury caused a total inability to work." The December 7, 2001,

letter from Dr. K is an adequate narrative that specifically explains why claimant was unable to perform any type of work during the qualifying periods in question. We also reverse the hearing officer's determination that, during the qualifying periods in question, "Claimant did not attempt in good faith to obtain employment commensurate with her ability to work." This determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we reverse it.

We reverse the hearing officer's decision that claimant is not entitled to SIBs for the first through fourth quarters and render a decision that claimant is entitled to SIBs for the first through fourth quarters.

According to information provided by carrier, the true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Judy L. S. Barnes
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Terri Kay Oliver
Appeals Judge